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ELEMENTS OF THE COUNTY PROBLEM

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Municipal reform in America got on its feet when cities began to think of their problems as a unit, and to apply the appropriate remedy on that basis. When, for example, Galveston, Des Moines and more than two hundred other municipalities adopted commission government, many of their difficulties proved to be surface manifestations of fundamental faults of organization. They changed the structure of the municipal government, making a complete new alignment to the facts of citizenship. And the simplified plan brought about, not instant and thorough-going reform in every branch of public business, but at least the prime essential condition under which such reform could be instituted. Good citizenship acquired a new and efficient instrument, through which there was direct and unmistakable responsibility to the people and the corresponding power to execute their wishes.

County government has just begun to be treated in the same fundamental fashion, through such measures as the new county charter in Los Angeles, the new city and county charter in Denver, and other more general legislation, which seeks to adapt some of the principles of commission government to counties. This means that problems arising within the county have begun to be regarded as a unit—the problem of the county.

Symptoms of Inefficiency

But, before dealing with the structure of county government, it may be well to suggest in passing a few of the typical superficial conditions which have suggested this study.

From New Jersey emanate accounts of the breakdown of the jury system, yet the sheriffs of that state, burdened with the task of impanelment, frantically endeavored this year to stay legislation which would take this function out of their control. Hudson county in that state has distinguished itself by retaining for a year in an important fiscal office a person who had been convicted of crime.

Some five years ago several counties in New York State were afflicted with a leaping and bounding tax rate. The state comptroller sent his examiners into five or six of them, and in at least one, he found a practically wide open treasury which could be picked at the instance of half a dozen elective county officers, with no one raising a dissenting voice. In one county, by a series of resolutions directly contrary to law, the board of supervisors actually abdicated its principal function as auditor of the county bills, to an appointive employee who served without bonds and was subject to no check whatever beyond a perfunctory examination. Vouchers for public expenditures in several counties were found to be burned; sometimes stuffed away in barrels in an utter lack of sequence or order. Officers like the county clerk or county treasurer had for years been pocketing fees which the statutes plainly stated were the property of the state.

The treasurer of Cook county, Illinois, some months ago flatly denied permission for a public examination of his office—until an account of his attitude was made a matter of general knowledge through a report from the Bureau of Public Efficiency. The coroner's office in the same county, investigated by the same agency, revealed a singular looseness in its methods.

From many of the states came something more than intimations of the inferior grade of men sitting in places of authority on the county board.

Counties show a backwardness in civil service reform; so that in New York State, where civil service was applicable to cities since 1883, it was not extended to counties until 1900. Non-partisanship in elections, long since generally recognized as an axiom in good city government, has never been seriously discussed in relation to counties. The county machine politician, on the whole, appears to be still quite firmly in the saddle.

In all these seemingly unrelated and superficial ailments there is nothing startling nor peculiar to counties. But, in a cumulative way, they voice the lack of popular interest in the whole subject of the county, which in its turn has, quite naturally, brought forth the typical and familiar symptoms of weak, inefficient government which have a way of cropping out wherever the covering is thinnest.

Outworn Types of Organization

This is not, however, to say that the present failings of county government are due to quite the same ultimate interests which have lowered efficiency and public morality in the cities and states. For, while the counties have undoubtedly suffered from their business graft, and dark scandals have been frequent in connection with house and road construction, supply contracts, and other activities, the trouble seems to be political rather than social. More than in any one respect, the county has failed in adapting its general form of organization to the varying conditions of modern citizenship. Historical factors appear to have furnished a larger and more conservative part in the shaping of county government than in the government of any other political division. Conceived in the colonial period, when rural and town life prevailed, counties have retained substantially their original form. The divergence of types in different states follows not so much the changing wants of the community as the particular slant which tradition has given it. Thus New York State clings to the township system, evidently not because it answers to the present distribution of population into rural and urban communities, but because it originally met the requirements of the northern colonies. Contrariwise, the South, in spite of rapid urban growth, clings to its commissioner system,—a heritage of aristocratic colonial days; and the middle and far west, in which the northern and southern influences have coalesced, have adopted a variety of combinations of the two forms, or, as in Illinois, given the separate communities an option between them.

While the county forms have been crystalizing, hundreds of cities, like Kansas City, Omaha, and Chicago, have sprung up in the middle of the plains, and have developed a mechanism of government suitable, in some degree, at least to the complex needs of their compact and varied population. In nearly every one of these cases, an antique county organization is retained. The inevitable result is a duplication of functions, conflict of authority and wasted effort.

Sometimes it is in the police establishment, as in Los Angeles, where the framers of the new county charter found the sheriff, the constables, and the municipal police forces operating side by side, each on his own distinct and independent authority. Even in New York county the authority of the large, and in most respects efficient,

police force, is subject to dispute at the hands of the sheriff, as in the case of a recent strike.

Much of the same situation exists in some parts of the country with reference to the school system, wherein there are excellent opportunities for disputes between the county and the city superintendents in the same municipality. The dispensing of aid to indigents is often portioned out between the county and the town and a rather humorous distinction is made, in New York and the New England states, between town poor and county poor. Cities and counties sometimes duplicate each other's machinery in the assessment and collection of local revenue, sometimes even assessing the same property at wide differences of valuation.

Relation to the State Government

Undoubtedly, these faults are due, at bottom, to the policy of legislative centralization which, with the exception of California since the adoption of the home-rule amendment, is universal with the states. The many matters of routine that come within the purview of county offices call for a certain uniformity of procedure, as in the case of the public records of property transfers and court transactions. But, instead of stopping here, the states have taken it upon themselves to regulate and standardize by statute and even by constitution many questions of organization which would better be dealt with by local authorities in the light of local needs. So that, from mandatory salary legislation and from the creation of needless statutory positions, the counties have suffered quite as much from foreign control as the cities. And the greatest inconsistency on the part of the states is in that, having gone so far in a legislative way, they have exercised so little direct regulation over accounts, collection of taxes, civil service and the administration of justice. Upon its written laws the state casts the whole responsibility for the protection of life and property, its first duty to its citizens. The whole complex machinery for executing these functions, apart from this impersonal legislation, has but a local relationship until, by some extremity, it gets involved in litigation in one of the state courts.

Structural Defects

In its internal organization, too, the county is a victim of disintegrated responsibility. The great wave of democracy which swept

over the country in the middle of the last century called for the election of as many officers as the legislatures could be persuaded to put on the ballot. County offices were especially vulnerable to this tendency for several reasons. The demands which they made upon the intellects and the energies of their incumbents seemed not onerous; and, especially in the rural districts, the people regarded it not only as a sacred duty but an inalienable right to hold some county office at least for one term during a lifetime. They regarded short terms and rotation in office as the very essence of democracy.

And so the county ticket, in the municipalities at least, often contributed more toward the familiar evils of the long-ballot system than any other single factor. Rural voters, doubtless, do know their candidates, but, because of the practice of legislating uniformly for county government, the cities had to take the long county ballot because the farmers demanded it.

But even in the country counties some of the most deep-seated evils of the system inevitably arise. And this is the central difficulty: Whenever an officer is elected by the people, by that very fact he stands upon an independent basis. When several important officers are thus independently elected, there can be no real unifying authority which can force harmony of action. This is illustrated by the case of the coroner, who in many states is an elective officer.¹ The Cleveland Municipal Association, in their excellent report upon this office found that the coroner was often a serious obstacle to the administration of criminal justice, because the district attorney, who was an officer of equal rank and independence, did not have any adequate power to keep him from ignorantly or maliciously covering up evidences of crime in cases of violent death.

As a substitute for the natural form of control through personal subordination, which is the rule in every effective organization, there has been developed a form of control by litigation. The board of supervisors, for example, is recognized by law as the official head of the county. But this board must perform many of its functions through elective subordinates. The common way to enforce its authority is to take action on the officer's bond, perhaps with the aid of the district attorney, who is also usually elective. This, of course, is a drastic method which in practice is resorted to only infrequently; and for minor delinquencies, and for the purposes of enforcing posi-

¹ See paper in this volume on "The Coroner's Office."

tive continuous efficiency, the law makes no provision at all. Surely, this is "government of laws not of men" reduced to the point of absurdity.²

Civic Aspects

The long-ballot system places the county in an unfortunate position from the standpoint of the citizen. The chief concerns of counties in the past, in so far as they affected the incorporated municipalities within their limits, have been undebatable matters. Nearly all of the work of the county clerk, the sheriff and the recorder of conveyances concerns the small minority of the whole body of people who, in the course of the year, prepare for matrimony, transfer real estate or are haled into court. In these offices the average citizen cannot be expected to take any great interest. To him they represent no public policies. To him, in fact, the whole matter of county government is a considerable bore. It is this element of obscurity which has given the professional county politician his golden opportunity. The citizen cannot or will not elect the officers, so the boss obligingly—for considerations—takes over that function himself. After election, too, he supplies the natural demand in the county organization for a personal, visible, even though unofficial and extra-legal head. The system is expensive; and it is far-reaching in that it supplies one of the chief elements in the state "machine."

Constructive Phases of the Problem

But lest the analysis of this subject bring on a deep melancholy, it may be suggested that the county problem is not only soluble but is already on the way to practical solution in several of its phases. To begin with, one state, California, has found a workable method of making the county organization adaptable to a vast disparity of local conditions, with apparently no menace to the proper control of the central government over its civil divisions. The legislature of California in 1911 had come to know that there were a number of subjects which the local electorate and the local authorities in the

² The counties of the first class (Hudson and Essex) in New Jersey have an officer known as "county supervisor," who has powers analogous to those usually conferred upon the mayor of a city not of the "commission government" type. This official keeps the board of chosen freeholders informed as to the state of the county finances, attends to the enforcement of laws, supervises the subordinate officers and holds the veto power. (*Public Laws of 1900*, pp. 168, 191, 193.)

fifty odd counties could pass upon far more intelligently than legislators resident in a section of the state perhaps seven hundred miles away. The cities of California for over thirty years had enjoyed the privilege of managing for themselves all their strictly local affairs under the "home rule" provisions of the constitution, and had thrived under the system. The counties, on the contrary, were enthralled by the theory that they were mere civil divisions of the state and must be rigidly controlled by state authority. The legislature of 1911 saw the county problem in a new light. So they submitted to the people a proposition for limited constitutional home rule for counties, which made it possible for the local constituency to decide upon the structure or form of their own government, and to control the county officers as they saw fit. The amendment was adopted in October, 1911.³

The procedure under the California constitution by which a new county charter may be adopted is very similar to that which has been employed, for thirty-four years, in the cities. On petition of fifteen per cent of the electors or on the initiative of the board of supervisors, an election of a board of fifteen freeholders is held. The freeholders draft a charter, which is submitted to the people for ratification. This document must then go to the legislature for approval or rejection, as a whole, a merely formal step, since no legislature in thirty-three years of municipal home rule has ever rejected a charter or an amendment to one.

The central feature of this amendment is the power which it gives the locality to determine whether the officers of the county, except the board of supervisors, shall be elective or appointive, and, if appointive, to determine the manner of appointment.

The Los Angeles Charter

It is this power over the method of the selection of officers which gives the freeholders the key to a new plan of organization peculiarly adapted to the needs of their county; an advantage the charter framers in Los Angeles county, who were the first to take advantage of the amendment, were quick to seize. The charter which they submitted and which the people ratified on November 5, 1912, as

³ For the constitutional provisions in California constitution see paper in this volume on "County Home Rule in California."

embodying a new conception of county organization is worth reviewing:

Primarily, the old notion that every officer must be elected, is abandoned. Under the old legislative county law in California, the people in the large counties elected, every four years, the following officers: one supervisor for each of five districts, county superintendent of schools, coroner, public administrator, county clerk, district attorney, sheriff, auditor, treasurer, tax collector, assessor, recorder and surveyor. In addition to these, was a galaxy of elective constables and justices of the peace. The new county charter wipes off the ballot most of these officers because their duties are almost entirely ministerial or clerical, though the ballot will still be used in the selection of the sheriff, district attorney and assessor. By rotating the terms of the elective officers, not over three of them will be chosen in any one year, after the first election, which means that the county ticket in any single year will be reduced from thirteen to two, or at most, three officers.

In the second place, the charter provides for a unified, responsible system of administrative control, where the old law had imposed duties without conferring correspondingly adequate powers. For, with the inauguration for the new system, the board of supervisors, subject to the civil service provisions, will have control, through the power of appointment and removal, over the principal county officials, who will henceforth be merely heads of departments.

External Adjustments

But while the Los Angeles charter points the way toward a rational resetting of the lines of official responsibility, it is conspicuously lacking in any suggestion of adjustment as between the county as a whole and the municipalities within its limits. One class of cases which would come in for treatment of this kind would be those where the boundaries of the county and those of a city are coterminous (as in the case of Denver and San Francisco) or can be made to correspond. In such instances, the county is principally a judicial unit, without any important functions of local government, and it is not a difficult matter to transfer county functions to already existing city officers, or vice versa. The interests of the city and the interests of the county may be merged and the uninteresting routine, administrative functions of the county may be vitalized

by, and made to partake of, the benefits of the civic interest which is brought to bear in the discussion of municipal policies and issues which are an incident of city elections. Denver has actually accomplished such a merger through an application of the short ballot principle by which the sheriff, county clerk and supervisor are subordinated to the five elected commissioners, who constitute the sole policy-determining or governing body of the city and county.

A solution of a very different type and especially applicable to counties which contain a number of separate municipalities is the one now proposed in Alameda county, California. This is a county in which the divergency between the urban and rural, and, in fact, between the several urban communities, is sharply accentuated. One half the county is composed of farming country and will probably remain such for many years to come; the other half of a group of cities including Oakland, with a population of 150,174, Berkeley 40,434, Alameda 23,383 and several smaller incorporated places. At a glance it will be seen that these municipalities, through juxtaposition, have many interests in common. At the same time, there is in each a powerful, and, in many ways, a laudable, local sentiment which has made it seemingly hopeless to attempt anything like consolidation, or annexation to any one of the larger cities.

Under these circumstances the Tax Association of Alameda County, supported by several other civic and commercial organizations, as a means of getting rid of duplicate officers and conflict of authority, has proposed a system of federation. The ten incorporated cities and towns and the three divisions of the rural half of the county, would each be given representation as municipalities on a board of county supervisors. This county board, however, would not be a separate and distinct elective body, as at present, but would consist of the mayors, and in the case of the largest cities, of additional designated members of the city council. The board of mayors would control directly all of the other county officers with the exception of those attached to the judicial branch, *i. e.*, the sheriff, public administrator and district attorney (the county or superior judges being considered in California as state officers). Many duplicate offices would be consolidated, with the idea of effecting economies and simplifying machinery.

Broadly speaking, the changes recently adopted or projected in the several important centers in Colorado and California suggest what seems to be the soundest basis for thoroughgoing reorganization: the composition and distribution of population. At least three types of community need to be recognized as having distinct administrative problems:

1. All rural communities, where the county (with its subdivisions) is the sole agency of local government as well as an administrative division of the state.

2. All urban communities, in which the county is practically an administrative division only.

3. Mixed urban and rural communities.

And, incidentally, in order to bring homogeneous elements of the population under a single organization, it may also be found desirable, in some states, to re-fix certain county lines. Cities like Chicago, Cleveland and Buffalo find themselves great urban populous centers surrounded by a fringe of rural territory, out of which condition many complications arise. That condition could be simplified by attaching the outlying communities to other counties or erecting them into new counties. Distinctly rural communities might well be set apart from those whose problems are urban and their administration handled accordingly.

Future Possibilities in County Development

Under arrangements such as might be effected either by consolidation or federation, as suggested, it seems not a vain hope that the urban or semi-urban county will be able, sometime in the future, to assume a larger and more important rôle in local government than heretofore. One feature of American life, in particular, seems to present an opportunity to develop county organization into a highly important, and hence civically interesting division of government:—the growth of interurban interests. Some of these center around questions of public utilities, such as railways, light, heat, water and power supply and telephone service. There are also the problems of police, fire and health administration, which have usually been committed to the care of cities by a delegation of the state's "police" power. The administration of these functions by a variety of contiguous municipalities often makes for confusion and waste. A more logical, certainly, and perhaps more practical, distribution

in many cases would put these matters in the hands of the state's own civil divisions. In this way a great population center like that which is composed of the hundred or so separate municipalities just across the Hudson from New York City, could present a united front to a great conflagration, an epidemic of disease or a powerful public service corporation, all of which are contemptuous of mere boundary lines. In that case the county problem, as we have outlined it, would disappear, for municipal affairs, in themselves a sufficiently fruitful, but also hopeful, field for reform, would not be overlaid, as at present, with questions which properly belong either to the state authorities or to rustic localities.